

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application of	Confirmation No.: 6369
Inventor(s): Nicolaas Dekker et al.	Group Art Unit: 3634
Appl. No.: 10/624,938	Examiner: David M. Purol
Filed: July 21, 2003	
Title: Venetian Blind with Variable Tilting	

---

Mail Stop: PETITION  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**STATEMENTS REGARDING UNINTENTIONAL DELAY ACCOMPANYING PETITION  
UNDER 37 CFR 1.137(b)**

The Applicant submits the following statements regarding the facts concerning the delay in filing the required reply. The Applicant respectfully submits that these statements establish that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. 1.137(b) was unintentional.

The final Office action mailed December 6, 2007, maintained the prior rejection of claims 1-26 and 28-34 based on a defective reissue declaration, stating that the reissue declaration filed with this application "contains an insufficient statement of at least one error which is relied upon to support the reissue application," citing 37 C.F.R. § 1.175 and MPEP § 1414. In particular, the final Office action indicated that the Applicant's arguments in the remarks section of the response filed February 16, 2007, regarding the respective errors "are to be incorporated in the reissue declaration as originally filed," and noted that a supplemental reissue declaration is required for the additional errors or

defects that are corrected in the reissue application after the original reissue declaration.

The Applicant attempted to comply with the final Office action's requirement for a new/supplemental reissue declaration by filing such declaration with the response filed January 22, 2008. The Applicant incorporated the arguments from the remarks section of the response filed February 16, 2007, regarding the respective errors into the new/supplemental reissue declaration. Thus, the Applicant believed that the new/supplemental reissue declaration filed January 22, 2008, would overcome the rejection of the claims while also satisfying the requirement for a supplemental reissue declaration.

The Applicant patiently waited for action by the Examiner regarding the response filed January 22, 2008. Having not received a Notice of Allowance or other communication from the Office, the Applicant contacted Examiner Purol by telephone on June 2, 2008, to determine the Examiner's intended action. During that telephone conference, Examiner Purol indicated that he was prepared to allow the reissue application, but was awaiting a new supervisor to be assigned June 9, 2009. Thus, the Applicant believed that the new/supplemental reissue declaration filed January 22, 2008, had placed the application in condition for allowance.

The Applicant again patiently waited for action by the Examiner allowing the reissue application, periodically checking the Patent Application Information Retrieval system. However, on February 17, 2009, the Applicant received a Notice of Abandonment (mailed February 13, 2009) indicating that the response received on January 22, 2008 does not constitute a proper reply under 37 C.F.R. § 1.113(a). This

was the first indication by the Office that the new/supplemental reissue declaration filed January 22, 2008, did not place the reissue application in condition for allowance, contrary to the representations made to the Applicant by Examiner Purol on June 2, 2008.

An Advisory action was purportedly mailed January 30, 2009. However, the Advisory action was never received by the Applicant, who only became aware of it by checking the Patent Application Information Retrieval system upon receiving the Notice of Abandonment mailed February 13, 2009.

The Advisory action indicated that the new/supplemental reissue declaration filed in response to the final Office action is also defective. The Advisory action further indicated that the amendments filed March 30, 2006, and February 16, 2007, do not comply with 37 C.F.R. § 1.173, that the original 6 sheets of drawings must be relabeled to account for the current 7 sheets of drawings, and that there is no disclosure for the additional cord between cords 14 and 17 depicted in Fig. 8.

The Applicant carefully considered the Advisory action, the final Office action and the prosecution history regarding the issues raised concerning the reissue declaration. The Applicant also thoroughly reviewed the Manual of Patent Examining Procedure to assess these issues. Based thereon, the Applicant timely prepared the filings accompanying these Statements, including a Petition to Revive, a Terminal Disclaimer, an Amendment and Response, a Request for Continued Examination and a Petition for Extension of Time.

The Applicant respectfully submits that the Applicant's intention to pursue this reissue application and to obtain allowance of the reissue application is evidenced by

the foregoing facts. The Applicant in good faith believed that the reply filed January 22, 2008, satisfied the requirements of the final Office action mailed December 6, 2007, by placing the reissue application in condition for allowance.

Thus, at no time did the Applicant deliberately choose not to file a reply to satisfy the requirements of the final Office action or otherwise deliberately decide to allow this reissue application to be abandoned. The Applicant has not sought to defer patent fees or prosecution expenses. The Applicant has always considered the claims of the reissue application to be patentable over all references of record and to be of sufficient breadth or scope to justify the financial expenses of obtaining a reissued patent. The Applicant has also always considered a reissue patent based on this application to be of sufficient value to maintain interest in and to justify the financial expenses of obtaining the reissued patent.

In view of the foregoing, the Applicant respectfully requests revival of this reissue application by granting the Petition to Revive under 37 C.F.R 1.137(b) filed herewith.

Dated this 27<sup>th</sup> day of March 2009.

Respectfully submitted,

  
Klifton L. Kime, Reg. No. 42,733  
DORSEY & WHITNEY LLP  
370 Seventeenth Street, Suite 4700  
Denver, Colorado 80202-5647  
Tel: (303) 629-3400  
Fax: (303) 629-3450  
e-mail: kime.klifton@dorsey.com

USPTO Customer No. 20686

KLK/  
4835-5898-3683\1